

REFERENCE TITLE: ASRS; LTD program; offsets

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1169

Introduced by
Senator Martin

AN ACT

AMENDING SECTION 38-797.07, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-797.07, Arizona Revised Statutes, is amended to
3 read:

4 38-797.07. LTD program benefits; limitations; definitions

5 A. The LTD program is subject to the following limitations:

6 1. Except as provided in paragraph 7 of this subsection, monthly
7 benefits shall not exceed two-thirds of a member's monthly compensation at
8 the time disability commences, reduced by:

9 (a) FOR A MEMBER WHOSE DISABILITY COMMENCED BEFORE JULY 1, 2006,
10 sixty-four per cent of social security disability benefits that the member or
11 the member's dependents are eligible to receive.

12 (b) FOR A MEMBER WHOSE DISABILITY COMMENCED ON OR AFTER JULY 1, 2006,
13 ALL OF ANY SOCIAL SECURITY DISABILITY BENEFITS THAT THE MEMBER OR THE
14 MEMBER'S DEPENDENTS ARE ELIGIBLE TO RECEIVE.

15 ~~(b)~~ (c) FOR A MEMBER WHOSE DISABILITY COMMENCED BEFORE JULY 1, 2006,
16 eighty-three per cent of social security retirement benefits that the member
17 is eligible to receive.

18 (d) FOR A MEMBER WHOSE DISABILITY COMMENCED ON OR AFTER JULY 1, 2006,
19 ALL OF ANY SOCIAL SECURITY RETIREMENT BENEFITS THAT THE MEMBER IS ELIGIBLE TO
20 RECEIVE.

21 ~~(e)~~ (e) All of any workers' compensation benefits.

22 ~~(d)~~ (f) All of any payments for a veteran's disability if both of the
23 following apply:

24 (i) The veteran's disability payment is for the same condition or a
25 condition related to the condition currently causing the member's total
26 disability.

27 (ii) The veteran's disability is due to, or a result of, service in
28 the armed forces of the United States.

29 ~~(e)~~ (g) All of any other benefits by reason of employment that are
30 financed partly or wholly by an employer, including payments for sick leave.
31 This subdivision does not include any retirement benefit that is received by
32 the member pursuant to a state retirement system or plan other than ASRS.

33 ~~(f)~~ (h) FOR A MEMBER WHOSE DISABILITY COMMENCED BEFORE JULY 1, 2006,
34 fifty per cent of any salary, wages, commissions or other employment related
35 pay that the member receives or is entitled to receive from any gainful
36 employment in which the member actually engages.

37 (i) FOR A MEMBER WHOSE DISABILITY COMMENCED ON OR AFTER JULY 1, 2006,
38 ALL OF ANY SALARY, WAGES, COMMISSIONS OR OTHER EMPLOYMENT RELATED PAY THAT
39 THE MEMBER RECEIVES OR IS ENTITLED TO RECEIVE FROM ANY GAINFUL EMPLOYMENT IN
40 WHICH THE MEMBER ACTUALLY ENGAGES.

41 2. Monthly benefits are not payable until a member has been totally
42 disabled for a period of six consecutive months.

- 1 3. Monthly benefits are not payable to a member who is receiving
2 retirement benefits from ASRS.
- 3 4. Monthly benefits are not payable to a member whose disability is
4 due to, or a result of, any of the following:
5 (a) An intentionally self-inflicted injury.
6 (b) War, whether declared or not.
7 (c) An injury incurred while engaged in a felonious criminal act or
8 enterprise.
9 (d) An injury or sickness for which the member received medical
10 treatment within ~~three~~ SIX months before the date of the member's coverage
11 under the LTD program. This subdivision does not apply to a member who
12 either:
13 (i) Has been an active member of an employer for twelve continuous
14 months.
15 (ii) Is employed by an employer as of June 30, 1988.
16 5. Monthly benefits cease to be payable to a member at the earliest of
17 the following:
18 (a) The date the member ceases to be totally disabled.
19 (b) The date the member:
20 (i) Ceases to be under the direct care of a doctor.
21 (ii) Refuses to undergo any medical examination or refuses to
22 participate in any work rehabilitation program for which the member is
23 reasonably qualified by education, training or experience and that is
24 requested by the insurance company or claims administrator that is selected
25 by the board to administer the LTD program.
26 (c) The date the member withdraws employee contributions with interest
27 and ceases to be a member.
28 (d) The later of the following:
29 (i) The member's normal retirement date.
30 (ii) The month following sixty months of payments if disability occurs
31 before sixty-five years of age.
32 (iii) The month following attainment of seventy years of age if
33 disability occurs at sixty-five years of age or after but before sixty-nine
34 years of age.
35 (iv) The month following twelve months of payments if disability
36 occurs at or after sixty-nine years of age.
37 (e) If the member is convicted of a criminal offense and sentenced to
38 more than six months in a jail, prison or other penal institution, the first
39 day of the month following the first thirty continuous days of the member's
40 confinement for the remainder of the confinement.
- 41 6. Monthly benefits are payable under the LTD program only for
42 disabilities that commence on or after July 1, 1988.

1 7. The minimum benefit for a member who is entitled to receive
2 benefits under the LTD program is fifty dollars per month.

3 8. Members are eligible to receive the benefits and payments described
4 in paragraph 1 of this subsection, and the reductions provided by paragraph 1
5 of this subsection apply even though the benefits are not actually paid as
6 follows:

7 (a) For primary and dependent social security benefits, the members
8 are eligible for the benefits until the benefits are actually awarded, or if
9 the benefits are denied, until the member pursues the social security appeal
10 process through a hearing before a social security administrative law judge
11 or until the insurance company or claims administrator determines that the
12 member is not eligible for social security disability benefits.

13 (b) For benefits and payments from any other source provided in
14 paragraph 1 of this subsection, the members are eligible for the benefits if
15 it is reasonable to believe that the benefits will be paid on proper
16 completion of the claim or would have been paid except for the failure of the
17 member to pursue the claim in time.

18 9. A member shall be considered totally disabled if:

19 (a) During the first thirty months of a period of disability, the
20 member is unable to perform all duties of the position held by the member
21 when the member became totally disabled.

22 (b) For a member who has received monthly benefits for twenty-four
23 months within a five-year period, the member is unable to perform any work
24 for compensation or gain for which the member is reasonably qualified by
25 education, training or experience in an amount at least equal to the
26 scheduled benefits prescribed in paragraph 1 of this subsection.

27 B. A member who receives monthly benefits from the LTD program is
28 entitled to receive service credit pursuant to article 2 of this chapter from
29 the time disability commences until benefits cease to be payable, except that
30 for a member who receives monthly benefits from the LTD program on or after
31 June 30, 1999 the number of years of service credited to the member's
32 retirement account during the period the member receives LTD benefit payments
33 shall not cause the member's total credited service for retirement benefits
34 to exceed the greater of thirty years or the total years of service credited
35 to the member's retirement account on the commencement of disability.

36 C. This section does not prohibit a member whose disability has been
37 established to the satisfaction of the board from relying on treatment by
38 prayer through spiritual means in accordance with the tenets and practice of
39 a recognized church, religious denomination or Native American traditional
40 medicine by a duly accredited practitioner of the church, denomination or
41 Native American traditional medicine without suffering reduction or
42 suspension of the member's monthly benefits.

43 D. For the purposes of this section:

1 1. "Received medical treatment" means that the member consulted with
2 or received the advice of a licensed medical or dental practitioner,
3 including advice given during a routine examination, and it includes
4 situations in which the member received medical or dental care, treatment or
5 services, including the taking of drugs, medication, insulin or similar
6 substances.

7 2. "Social security" and "social security disability" includes the
8 railroad retirement act of 1974 (P.L. 93-445; 88 Stat. 1305; 45 United States
9 Code sections 231 through 231u).